

IC 9-30-15.5

Chapter 15.5. Habitual Vehicular Substance Offender

Effective 1-1-2015.

IC 9-30-15.5-1

Vehicular substance offender

Effective 1-1-2015.

Sec. 1. As used in this chapter, "vehicular substance offense" means any misdemeanor or felony in which operation of a motor vehicle while intoxicated, operation of a motor vehicle in excess of the statutory limit for alcohol, or operation of a motor vehicle with a controlled substance or its metabolite in the person's body, is a material element. The term includes an offense under IC 9-30-5, IC 9-24-6-15, and an offense under IC 9-11-2 (before its repeal).

As added by P.L.217-2014, SEC.153.

IC 9-30-15.5-2

Prior vehicular substance offense convictions

Effective 1-1-2015.

Sec. 2. (a) The state may seek to have a person sentenced as a habitual vehicular substance offender for any vehicular substance offense by alleging, on a page separate from the rest of the charging instrument, that the person has accumulated two (2) prior unrelated vehicular substance offense convictions.

(b) For purposes of subsection (a), a person has accumulated two (2) prior unrelated vehicular substance offense convictions if the person is convicted and sentenced for a vehicular substance offense committed after sentencing for a prior unrelated vehicular substance offense conviction. However, if the person has only two (2) prior unrelated vehicular substance offense convictions, the earlier prior unrelated offense cannot have occurred more than ten (10) years before the date of the more recent prior unrelated offense. If the person has at least three (3) prior unrelated convictions, the person has accumulated the convictions regardless of when the offenses occurred. However, a conviction does not count for purposes of subsection (a) and this subsection if:

(1) it has been set aside; or

(2) it is a conviction for which the person has been pardoned.

(c) If the person is convicted of a vehicular substance offense in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial is to the court, or the judgment is entered on a guilty plea, the court alone shall conduct the sentencing hearing, under IC 35-38-1-3.

(d) A person is a habitual vehicular substance offender if the jury (if the hearing is by jury) or the court (if the hearing is to the court alone) finds that the state has proved beyond a reasonable doubt that the person has accumulated four (4) unrelated vehicular substance offense convictions or three (3) unrelated vehicular substance offense convictions within a ten (10) year period.

(e) The court shall sentence a person found to be a habitual vehicular substance offender to an additional fixed term of at least

one (1) year but not more than eight (8) years of imprisonment, to be added to the term of imprisonment imposed under IC 35-50-2 or IC 35-50-3.

As added by P.L.217-2014, SEC.153.